

Subpart H—Geothermal Resources [Reserved]

Subpart I—OCS Sulfur [Reserved]

PART 204—ALTERNATIVES FOR MARGINAL PROPERTIES

Subpart A—General Provisions

Sec.

- 204.1 What is the purpose of this part?
- 204.2 What definitions apply to this part?
- 204.3 What alternatives are available for marginal properties?
- 204.4 What is a marginal property under this part?
- 204.5 What statutory requirements must I meet to obtain royalty prepayment or accounting and auditing relief?
- 204.6 May I appeal if MMS denies my request for prepayment or other relief?

Subpart B—Prepayment of Royalty [Reserved]

Subpart C—Accounting and Auditing Relief

- 204.200 What is the purpose of this subpart?
- 204.201 Who may obtain accounting and auditing relief?
- 204.202 What is the cumulative royalty reports and payments relief option?
- 204.203 What is the other relief option?
- 204.204 What accounting and auditing relief will MMS not allow?
- 204.205 How do I obtain accounting and auditing relief?
- 204.206 What will MMS do when it receives my request for other relief?
- 204.207 Who will approve, deny, or modify my request for accounting and auditing relief?
- 204.208 May a State decide that it will or will not allow one or both of the relief options under this subpart?
- 204.209 What if a property ceases to qualify for relief obtained under this subpart?
- 204.210 What if a property is approved as part of a nonqualifying agreement?
- 204.211 When may MMS rescind relief for a property?
- 204.212 What if I took relief for which I was ineligible?
- 204.213 May I obtain relief for a property that benefits from other Federal or State incentive programs?
- 204.214 Is minimum royalty due on a property for which I took relief?
- 204.215 Are the information collection requirements in this subpart approved by the Office of Management and Budget (OMB)?

AUTHORITY: 30 U.S.C. 1701 *et seq.*

SOURCE: 69 FR 55088, Sept. 13, 2004, unless otherwise noted.

Subpart A—General Provisions

§ 204.1 What is the purpose of this part?

This part explains how you as a lessee or designee of a Federal onshore or Outer Continental Shelf (OCS) oil and gas lease may obtain prepayment or accounting and auditing relief for production from certain marginal properties. This part does not apply to production from Indian leases, even if the Indian lease is within an agreement that qualifies as a marginal property.

§ 204.2 What definitions apply to this part?

Agreement means a federally approved communitization agreement or unit participating area.

Barrels of oil equivalent (BOE) means the combined equivalent production of oil and gas stated in barrels of oil. Each barrel of oil production is equal to one BOE. Also, each 6,000 cubic feet of gas production is equal to one BOE.

Base period means the 12-month period from July 1 through June 30 immediately preceding the calendar year for which you take or request marginal property relief. For example, if you request relief for calendar year 2006, your base period is July 1, 2004, through June 30, 2005.

Combined equivalent production means the total of all oil and gas production for the marginal property, stated in BOE.

Designee means the person designated by a lessee under 30 CFR 218.52 to make all or part of the royalty or other payments due on a lease on the lessee's behalf.

Producing wells means only those producing oil or gas wells that contribute to the sum of BOE used in the calculation under § 204.4(c). Producing wells do not include injection or water wells. Wells with multiple zones commingled downhole are considered as a single well.

Property means a lease, a portion of a lease, or an agreement that may be a marginal property if it meets the qualification requirements of § 204.4.

Minerals Management Service, Interior

§ 204.5

State concerned (State) means the State that receives a statutorily prescribed portion of the royalties from a Federal onshore or OCS lease.

§ 204.3 What alternatives are available for marginal properties?

If you have production from a marginal property, MMS and the State may allow you the following options:

(a) *Prepay royalty.* MMS and the State may allow you to make a lump-sum advance payment of royalties instead of monthly royalty payments for the remainder of the lease term. See Subpart B for prepayment of royalty requirements.

(b) *Take accounting and auditing relief.* MMS and the State may allow various accounting and auditing relief options to encourage you to continue to produce and develop your marginal property. See Subpart C for accounting and auditing relief requirements.

§ 204.4 What is a marginal property under this part?

(a) To qualify as a marginal property eligible for royalty prepayment or accounting and auditing relief under this part, the property must meet the following requirements:

If your lease is . . .	Then . . .	And . . .
(1) Not in an agreement	The lease must qualify as a marginal property under paragraph (b) of this section.	
(2) Entirely or partly committed to one agreement.	The entire agreement must qualify as a marginal property under paragraph (b) of this section.	Agreement production allocable to your lease may be eligible for relief under this part. Any production from your lease that is not committed to the agreement also may be eligible for separate relief under paragraph (a)(4) of this table.
(3) Entirely or partly committed to more than one agreement.	Each agreement must qualify separately as a marginal property under paragraph (b) of this section.	For any agreement that does qualify, that agreement's production allocable to your lease may be eligible for relief under this part. Any production from your lease that is not committed to an agreement also may be eligible for separate relief under paragraph (a)(4) of this table.
(4) Partly committed to an agreement and you have production from the part of the lease that is not committed to the agreement.	The part of the lease that is not committed to the agreement must qualify separately as a marginal property under paragraph (b) of this section.	

(b) To qualify as a marginal property for a calendar year, the combined equivalent production of the property during the base period must equal an average daily well production of less than 15 barrels of oil equivalent (BOE) per well per day calculated under paragraph (c) of this section.

(c) To determine the average daily well production for a property, divide the sum of the BOE for all producing wells on the property during the base period by the sum of the number of days that each of those wells actually produced during the base period. If the property is an agreement, your calculation under this paragraph must include all wells included in the agreement, even if they are not on a Federal onshore or OCS lease.

§ 204.5 What statutory requirements must I meet to obtain royalty prepayment or accounting and auditing relief?

(a) MMS and the State may allow royalty prepayment or accounting and auditing relief for your marginal property production if MMS and the State jointly determine that the prepayment or accounting and auditing relief is in the best interests of the Federal Government and the State to:

- (1) Promote production;
- (2) Reduce the administrative costs of MMS and the State; and
- (3) Increase net receipts to the Federal Government and the State.

(b) At any time, if MMS and the State determine that either prepayment or accounting and auditing relief